

REMARKS

Claims 1-21 are pending. Claims 1-21 have been rejected as being obvious over Grove et al. '468 in view of Tumey et al. '440 and Mizrachy '374.

According to the Examiner, Grove et al. teach the invention except that Grove et al. do not include massaging elements with the device. Further, according to the Examiner, Tumey teaches a massage "sock" with a plurality of bladders located for heel massage, instep massage and sole massage, and Mizrachy teaches that it is conventional to combine the flexing of the foot along with massaging. Therefore, according to the Examiner, it would have been obvious to modify Grove to include massaging elements such as the sock of Tumey to enhance the method of improving circulation as suggested by Mizrachy. With respect to claims 3 and 5-8, the Examiner argues that a zipper is obvious over the hook and loop fasteners of Tumey, and that to control the amount of pressure in each bladder would be obvious in order to "better control exactly what pressure is in each bladder".

The applicant respectfully traverses the Examiner's rejections for the following reasons.

First, the applicant has carefully considered the Examiner's rejection, and has amended the claims in response thereto. In particular, independent claims 1 and 12 have

been amended to specify that the foot massage bladders include “at least one top bladder spaced apart from and above at least one bottom bladder, said at least one top bladder operably disposed above the foot and said at least one bottom bladder operably disposed under the foot.” None of the cited references teach using foot massage bladders both above and below the foot.

Second, the applicant respectfully submits that the Examiner’s use of Mizrachy as incentive for the combination of Grove et al. and Tumey is misplaced and improper. While Mizrachy shows massage in conjunction with the flexing of the foot, the massage of Mizrachy is for the leg and not for the foot. Thus, there is no teaching in Mizrachy or any of the cited art that it is conventional to conduct flexing of the foot in conjunction with massage of the foot.

Finally, with respect to the rejection of the dependent claims (e.g., claim 3-5), the Examiner has not shown where in the art it is suggested to provide the limitations found in the claim. The Examiner should not use the applicant’s own invention as incentive to provide a claimed limitation, but should find a teaching in the art. Otherwise, the rejection is simply an impermissible hindsight rejection.

In light of all of the above, it is submitted that the claims are in order for allowance, and prompt allowance is earnestly requested. Should any issues remain

outstanding, the Examiner is invited to call the undersigned attorney of record so that the case may proceed expeditiously to allowance.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Jay P. Sbrrollini".

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